

## **REMARKS**

The Applicant and Applicant's attorney wish to thank the Examiner for the time spent reviewing the application and preparing the Office Action. The Office Action, mailed April 24, 2008, considered and rejected claims 1-20 in light of Houston (U.S. Patent No. 5,318,491), Dyer (U.S. Patent No. 4,828,257), and Mertesdorf (U.S. Patent No. 5,137,501).<sup>1</sup> By this paper, claims 1, 6, and 15 have been amended. Accordingly, following this paper, claims 1-20 are pending, of which claims 1, 6 and 15 are the only independent claims at issue.

### **Rejections Under 35 U.S.C. § 103**

In the Office Action, claims 1-5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Houston in view of Dyer. Applicant submits that claims 1-5 are not obvious in light of Dyer.

Houston discloses a "tug of war machine" that includes a "belt loop which is pulled in a generally horizontal direction." *See* Abstract. The "loop 22" can be "moved under controlled resistance" with the use of "a brake or clutch 32" in "accordance with a predetermined program." Col. 3, ll. 39-49, 60-63. The "resistance placed on the loop can be selected to either provide a static pull or a hand-over-hand tug of war-type pulling exercise." Abstract. The tug of war machine also includes an "upright console 12" which "serves as a stationary support for the mechanical components and electronics" of the machine. Fig. 1; Col. 2, ll. 60-64. The console includes "a control panel 29 which allows selection of the parameters, modes," and "exercise programs" to be used with the machine. Col. 3, ll. 24-27; 60-63. The machine further includes "control circuit 50 which is programmed by the individual 12 by means of controls 29." Col. 4, ll. 2-4. The machine can also "provide voice output by utilizing synthesized speech which can provide the individual feedback on his or her performance and can encourage the user in the activity." Col. 5, ll. 14-18.

Dyer discloses a "system and method for providing an exercise program at a desired pace throughout each repetition and which applies resistance against a user's efforts based upon user performance history and user demographics." *See* Abstract. In Dyer's system, a remote central

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<sup>1</sup> Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

computer (e.g. 150) "is connected via an RS 485 communication link 153 through a two-wire cable set to an interactive weight lifting station." Col. 10, ll.64-66; *see also* Figure 5. The central computer "comprises a central control device for communicating information regarding individual users, including their personal demographics and past performance history, as well as [the] exercise program" to the weight station, and further "receives modified information such as updated performance histories, and changed exercise programs from the exercise station for storage in a central memory." Col. 10, ll. 35-44. In this manner, the "system ...automatically produc[es] changes to the user's exercise program in view of the user's performance history and demographic or physiological information." Col. 4, ln. 67 to Col. 5, ln. 2.

The exercise station is equipped with a "central processor unit (CPU) [which] controls the exercise program at each station." Abstract. To perform an exercise program, the central computer "sends...user data...to the appropriate local station." Col. 20, ll. 29-31. Upon "recognizing and accepting a previous user, the exercise station CPU 160 examines all pertinent data, such as previous weight lifted, previous number of repetitions, time since the equipment was last used, demographic information of the user and what kind of results the user is looking for." Col. 16, ll. 7-13. "The CPU [of the exercise station]...refers to a table lookup to obtain a starting weight [which] is based upon information such as age, sex and direction of movement of the equipment." Col. 36, ll. 26-30. The "CPU 160 updates the weight value to be used in the current session, and provides output to the user, telling him the weight and number of repetitions that he should do during this exercise period. Col. 16, ll. 13-17. In particular, the "exercise station includes a voice generator [] which verbally communicates various information such as exercise instructions and performance evaluations to the user" and which "responds to signals received from the CPU 160 to generate selected voice data." Col. 8, ln. 66 to Col. 9, ln. 1; Col. 12, ll. 42-44.

In contrast, amended claim 1 recites, among other things, an "exercise system comprising: a plurality of exercise apparatuses ... the exercise session comprising use of said plurality of exercise apparatuses, wherein said voice of said virtual personal trainer of said first exercise apparatus is adapted to provide instructions regarding use of both said first exercise apparatus and a second exercise apparatus of said plurality of exercise apparatuses during the exercise session, and wherein said first and said second exercise apparatuses are different types

of exercise apparatuses such that the user can exercise on a variety of different exercise apparatuses with the accompaniment of said voice of said virtual personal trainer.”

As indicated, the exercise system of claim 1 includes first and second exercise apparatuses. The first exercise apparatus of claim 1 includes the voice of the virtual personal trainer, which is adapted to provide instructions regarding the use of both the first exercise apparatus and the second exercise apparatus. Houston and Dyer do not disclose a voice of a virtual personal trainer from a first exercise apparatus providing instructions for the first exercise apparatus as well as a second exercise apparatus that is of a different type than the first such that a user can exercise on a variety of different exercise apparatuses while being instructed by the voice of a virtual personal trainer from one of the apparatuses. Rather, each of Dyer’s exercise stations includes its own voice generator for providing information to the user of that particular exercise station.

Accordingly, Applicant respectfully submits that independent claim 1 is neither disclosed in Dyer, nor an obvious variation of the device disclosed therein. Since dependent claims 2-5 depend from independent claim 1, and therefore, include the elements of independent claim 1, Applicant respectfully submits that for at least the foregoing reasons, dependent claims 2-5 are neither disclosed by nor obvious variations of Dyer. It is, therefore, requested that the rejection under 35 U.S.C. § 103(a) to claims 1-5 be reconsidered and removed.

In the Office Action, claim 9 was rejected under 35 U.S.C. § 103(a) as being anticipated by Dyer in view of Mertesdorf. Applicant submits that claim 9 is not anticipated by Mertesdorf.

By virtue of its dependence from independent claim 1, dependent claim 9 includes the elements of independent claim 1. As discussed above, Dyer fails to disclose the elements of independent claim 1. Furthermore, it has not been established that Mertesdorf remedies the identified deficiencies of independent claim 1. Applicant, therefore, respectfully submits that for at least the foregoing reasons, dependent claim 9 is neither disclosed by nor an obvious variation of Dyer or Mertesdorf. Thus, reconsideration and removal of the rejection under 35 U.S.C. § 103(a) to claim 9 is hereby requested.

**Rejections Under 35 U.S.C. § 102**

In the Office Action, claims 6-8 and 10-20 were rejected under 35 U.S.C. § 102(b) as being anticipated by Dyer. Applicant submits that claims 6-8 and 10-20 are not anticipated by Dyer.

Claims 6 and 15 have been amended herein to include language similar to that of claim 1 relating to the voice of the virtual personal trainer providing instruction for multiple exercise apparatuses of different types. For example, amended claim 6 recites "an exercise apparatus [that] can be operated within an exercise session with the capability of both varying an exertion of said user and contemporaneously providing said voice of a virtual personal trainer, the exercise session comprising use of a plurality of exercise apparatuses, and said voice of a virtual personal trainer of said exercise apparatus being capable of providing instructions regarding use of at least two exercise apparatuses of said plurality of exercise apparatuses during the exercise session, wherein said at least two exercise apparatuses comprise different types of exercises apparatuses such that a user can exercise on a variety of different exercise apparatuses with the accompaniment of said voice of a virtual personal trainer. Similarly, amended claim 15 recites "an exercise system comprising: (a) first and second exercise apparatuses, wherein said first and second exercise apparatuses are different types of exercise apparatuses ... wherein the exercise session comprises use of said first and second exercise apparatuses, and said voice of a virtual personal trainer of said first exercise apparatus being capable of providing instructions regarding use of said first and second exercise apparatuses during the exercise session such that the user can exercise on a variety of different exercise apparatuses with the accompaniment of said voice of a virtual personal trainer

As discussed above with reference to claims 1-5, Dyer does not disclose a voice of a virtual personal trainer from a first exercise apparatus providing instructions for the first exercise apparatus as well as a second exercise apparatus that is of a different type than the first. Rather, as noted, each of Dyer's exercise stations includes its own voice generator for providing information to the user of that particular exercise station.

Accordingly, Applicant respectively submits that independent claims 6 and 15 are neither disclosed in Dyer, nor obvious variations of the device disclosed therein. Since dependent claims 7-8, 10-14, and 16-20 depend from independent claims 6 and 15 respectively, and therefore, include the elements of their respective independent claims, Applicant respectfully

submits that for at least the foregoing reasons, dependent claims 7-8, 10-14, and 16-20 are neither disclosed by nor obvious variations of Dyer. It is, therefore, requested that the rejection under 35 U.S.C. § 102(b) to claims 6-8 and 10-20 be reconsidered and removed.

**Conclusion**

By this paper pending claims 1, 6, and 15 have been amended. Claims 1-20 are pending and should be in condition for allowance. Reconsideration and allowance of the above-identified claims are now respectfully requested.

In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 22<sup>nd</sup> day of July 2008.

Respectfully submitted,

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